

BIGFORK LAND USE ADVISORY COMMITTEE (BLUAC)
Approved Minutes Thursday April 29, 2021
Meeting was conducted at Bethany Lutheran Church

Chairwoman Susan Johnson called the meeting to order at 4:04 p.m.

Present: Committee member attendees: Susan Johnson, Chany Ockert, Lou McGuire, Jerry Sorensen, Shelley Gonzales, Richard Michaud, Tricia Pollett, and Brenton Pomeroy (as Secretary); Absent: none; Public: 9 members; Flathead County Planning and Zoning (FCPZ): Mark Mussman and Donna Valade.

The agenda was approved (m/s, S. Gonzales/J. Sorensen), unanimous.

Minutes of the March 25, 2021 meeting were approved (m/s, S. Gonzales/J. Sorensen), unanimous.

Administrator's Report and Announcements:

A sign in sheet was provided and email addresses were requested to ensure distribution of the minutes to those in attendance. Approved minutes and documents are also posted on the County website: [flathead.mt.gov/planning zoning](http://flathead.mt.gov/planning_zoning). Click on [meeting information](#). BLUAC has converted from The Bigfork Steering Committee website to bigfork.org where you can find information about BLUAC and what it takes to be a member as well as meeting minutes and agendas. The meeting on the last Thursday of May will include elections for various BLUAC positions.

Public Comment: None

Application:

FZC-21-02: A request by Gregory & Adria Strable for an after-the-fact variance to Section 3.11.040(3)(A) of the Flathead County Zoning Regulations (FCZR), to encroach in the rear setback for the single-family dwelling and the retaining wall as it is over three feet in height and must meet the 'Detached Accessory Structures' rear setbacks. The property is located at 1332 Bigfork Stage, Bigfork, MT within the Bigfork Zoning District. The property is zoned R-2 (One-Family Limited Residential) and the total acreage involved in the request is approximately 0.692 acre that can legally be described as Lot 35 of Peaceful Acres in Section 24, Township 27 North, Range 20 West, P.M.M., Flathead County, Montana.

Staff Report: (8:45)

D. Valade presented the staff report and described the process a variance goes through for approval. She explained that the request came about after a zoning violation was reported. The retaining wall is between four and six feet in height which violates the setback requirement. The applicant is in the process of renewing a septic permit for the property.

Applicant Report: (20:18)

The applicant (Gregory Strable) provided details concerning the expired septic permit and stated that he is in the process of submitting for a new septic permit and did not know that they expire. The new application is for the same size system as was previously approved. He had an engineer

design the system due to site topography. The grade is 18.4 percent. He has owned the property since 2011. In 2011 and 2012, when he was building the house, he states he spoke with county planning personnel and was told that his setback was appropriate for the house. He also had to wait a year due to a neighbor's septic being on his property that needed to be relocated. The current retaining wall is well built with boulders and dirt. There are not any CC&R's affecting the setback of the retaining wall.

Public Agency Comments: None

Public Comment:

Karren Edwards (624 Peaceful Drive, Bigfork) stated that the applicant had excavated into her property. She also stated that the applicant had trespassed on her property and used her fence as a retaining wall which is destroying her fence. She has gotten quotes to repair her fence, but they won't pay for a new fence. She has concerns for her family's safety due to the retaining wall potentially failing.

Staff Reply: None

Applicant Reply: G. Strable stated when he started the project his excavator got stuck and ruined the neighbors fence. He told his neighbor he would pay for the fence. He then brought in a much bigger excavator to dig out all the mud and dirt that was causing the problem with the retaining wall and replaced it with boulders in a geogrid. He believes the retaining wall is now safe.

Committee Discussion:

J. Sorensen expressed concern for the owner failing to do their due diligence before building. Relying on hearsay has put the applicant in a he said she said situation. There are still other ways to build on the property without requiring variances. C.Ockert expressed concerns for the size of the house in an subdivision designed for smaller homes. S. Gonzales expressed concern for the staff report stating that this variance would impact future property development.

Findings of Fact:

The Findings of Fact were adopted as written. (m/s, S. Gonzales/J. Sorensen), unanimous.

Committee Discussion and Vote: J. Sorensen moved to forward a recommendation to the Board of Adjustment to deny FZC-21-02. Motion was seconded by L. McGuire, motion passed with all in favor.

FCU-21-03: A request from Eagle Bend Golf Club, LLC for a conditional use permit for an extension of an administrative conditional use permit (FACU-20-05) for properties located at 279 Eagle Bend Drive and adjoining golf course near Bigfork, MT within the Bigfork Zoning District. The applicant is requesting the permit to allow for the continued use of two double wide mobile trailers used for a pro-shop/golfer check-in and for administrative offices, mobile restroom trailer, mobile kitchen and bar trailer(s), two small mobile trailers for dry and refrigerated storage, and a large canopy tent used as a dining area as a temporary use/buildings. The property is zoned RC-1 (Residential Cluster) and can legally be described as Lot 0T3 Eagle

Bend G and Tract E Eagle Bend 18 in Section 26, Township 27 North, Range 20 West, P.M.M., Flathead County, Montana.

S. Gonzales stated that she used to work for Eagle Bend Golf Course about ten years ago, but she did not feel that she needed to recuse herself.

Staff Report:

D. Valade presented the staff report. She explained that the permit was requested for continued use of temporary buildings and tents due to the original golf course club house burning down. The original temporary conditional use permit was good for a year and has expired.

Applicant Report: Mike Wynne stated that construction on the new club house is ongoing and they currently anticipate a Thanksgiving completion.

Public Agency Comments: Julie Spencer from Bigfork Water and Sewer stated that all temporary facilities are currently serviced by water and sewer.

Public Comment:

Brenton Pomeroy (107 Parker Meadow Road, Bigfork) expressed concern for the notification process of affected landowners. Only those next to the original clubhouse were notified and not those that live adjacent to the temporary structures the permit is for.

Staff Reply: None

Applicant Reply: None

Committee Discussion:

J. Sorensen expressed that in a practical standpoint there may be a technical issue with who is notified but those landowners probably all golf, so they are glad the temporary facilities are there. It is kind of no harm no foul. C. Ockert mentioned that there is a point of process because we have experienced this problem in the past. J. Sorensen recommended that the planning staff notify affected property owners that the application is going to go in front of the Board of Adjustment.

Findings of Fact:

The Findings of Fact were adopted as written. (m/s, S. Gonzales/L. McGuire), all in favor.

Conditions:

The conditions were adopted as written. (m/s, J. Sorensen/L. McGuire), all in favor.

Committee Discussion and Vote: J. Sorensen moved to forward a recommendation to approve FCU-21-03. Motion was seconded by S. Gonzales, all in favor.

FCU-21-04: A request from Adam Britt for a conditional use permit for 'dwellings, cluster (attached or detached when greater than 4 dwelling units/buildings)' and 'Tourist

accommodation units' on property located within the Bigfork Zoning District. The property is located at 615 Holt Drive, Bigfork MT and is zoned RC-1 (Residential Cluster) and contains approximately 1.7 acres. The property can legally be described as The Northerly 300 feet of Lot 1 of Harbor Village at Eagle Bend Phase 6 Subdivision, according to the map or plat thereof on file and of record in the office of the Clerk and Recorder of Flathead County, Montana, and a portion of the abandoned roadway in Section 26, Township 27 North, Range 20 West, Tract 4B in the Southeast Quarter Southwest Quarter, Section 26, Township 27 North, Range 20 West, P.M.M., Flathead County, Montana.

Staff Report:

M. Mussman presented the staff report. He explained that the permit was requested for cluster housing on subject property. The property is zoned RC-1 which allows tourist accommodation. There could be some issues concerning water and sewer if it were ever to be developed. He added that vacation rentals result in less traffic than long term rentals. There was some discussion between BLUAC and M. Mussman clarifying parts of the staff report and answering concerns around subdivision and zoning in RC-1 allowing vacation rentals. There was also some discussion of the numbers of potential guests and their impact on the neighborhood. M. Mussman differed most questions concerning site specific details to the applicant. S. Gonzales had concerns for the planned building sizes and the sites limited size and questioned how the staff report can support the proposed plan when the site clearly cannot support this type of development. M. Mussman clarified for BLUAC why RC-1 zoning is not subject to cluster housing requirements in residential districts.

Applicant Report: The applicant (Adam Britt) acknowledged BLUAC's concern for the site size and provided answers to questions BLUAC asked during the staff report. He started by clarifying that the drive lane and parking will be cut into the rock on the property.

J. Sorensen asked if an engineer is being used for this process to which the applicant stated there is no requirement to consult an engineer to excavate the rock, but he would take it into consideration.

The applicant stated that he understands that the terrain is difficult but believes that its location suits the proposed request.

S. Gonzales expressed concern that the proposed development is a commercial development in a residential area, to which the applicant stated that there is a boat storage lot and storage unit across the street and the RC-1 zoning allows it.

C. Ockert asked if the applicant has thought of reducing the size of the homes to better suit the site size. A. Britt explained that the units are already small. The structures without lofts are in the 400 square foot range. He is also willing to reduce the size of the structures if needed dependent on what he encounters as he develops the site. The site is planned to be excavated in two weeks.

S. Johnson expressed her concern that the plan appears to be a work in progress lacking detail.

There was some continued discussion on the potential for using the units as long-term rentals. A. Britt explained that if he were to do long term rentals there is no need for the conditional use permit. He also stated that he may be willing to do it in the off season.

A. Britt explained there are some site constraints concerning water and sewer. The property is currently served by two water and two sewer lines and there is no additional capacity to add more to the property at this time. A. Britt has hired APEC Engineering to ensure the planned facilities are serviced within standards for the number of fixture units in each structure.

Public Agency Comments: Julie Spencer from Bigfork Water and Sewer stated there are two water and two sewer lines run to the property. They anticipated two single family residences on the property. Bigfork currently does not have any capacity to add service beyond what is already on site. There is currently a preliminary report and an ongoing survey to upgrade the sewage treatment. The current system is proposed to be upgraded in 2035.

S. Gonzales showed proposed site map to Fire Department personnel in attendance who explained there may be concerns for getting a ladder truck onto the site in the case of emergency. A. Britt explained that the parking and drive are within code.

S. Johnson asked if the applicant has addressed the concerns of the county health department. A. Britt responded that he has, and each unit will get its own license. He also stated that he and his wife would be managing the rentals.

Public Comment:

Betty McCormic (Lake Pointe Estates, Bigfork) expressed that this whole process has been a learning experience for her. She is concerned for how everything is going to fit on the lot.

Dave Hadden (545 Holt Drive, Bigfork) expressed his concerns for the proposed density of units on the property. He also believes that the proposed plan is not fitting for the character of the residential neighborhood. He is also concerned for the safety of his family and pets with the amount of congestion in the area.

Staff Reply: M. Mussman explained that a minor modification to an approved conditional use permit is allowed. If the permit were approved, it could be modified if site conditions prevent A. Britt from building 9 units but if A. Britt wanted to expand units, he would have to get a new conditional use permit.

Applicant Reply: A Britt told his neighbors who were present, that he plans to build responsibly and is trying to preserve many of the trees on the property. He explained that he has a background in architecture and building and is not going to put prebuilt cabins on site. He is going to build structures that are designed to fit into the environment.

Committee Discussion:

S. Johnson expressed concern for the applicant removing rock from the hill side. D. Hadden who owns the property just above the hill side stated that he is not concerned with the rock removal. He stated that it is all solid rock and terraced. L. McGuire and J. Sorensen expressed concerns for

the site size and limited water and sewer. S. Johnson believes the plan appears to be a work in progress and is lacking many details.

Findings of Fact:

Finding of Fact number 1 was amended to read “The subject property does not appear suitable for the proposed use because the structures would require significant rock removal and landscape alteration.

Finding of Fact number 3 was deleted.

Finding of Fact number 6 was amended to read “Traffic generated by the proposed use is anticipated to have an unacceptable impact on the immediate neighborhood because the cluster dwellings have the potential to increase traffic on Holt Drive during a high traffic season and congestion at this location.

Finding of Fact number 7 was amended to read “The proposed use is anticipated to have a significant impact on the immediate neighborhood because noise, vibration, dust, glare, heat, smoke, fumes, gas, or odors in excess of what is anticipated for residential use is expected. The applicant would be required to pave the parking and driving areas.

The Findings of Fact were adopted as amended. (m/s, C. Ockert/L. McGuire), all in favor except T. Pollett who was absent from the vote.

Committee Discussion and Vote: L. McGuire moved to forward a recommendation to deny FCU-21-04 due to insufficient information such as an engineering report for rock removal and geological alteration, as well as rereview by Bigfork Water and Sewer, and Bigfork Fire department. Motion was seconded by S. Gonzales, all in favor except T. Pollett who was absent from the vote.

Old Business: None

New Business:

M. Mussman provided information to BLUAC concerning vacation rentals in Bigfork. He explained that there are zoning districts within Bigfork that outright permit short term rentals. There have been short term rentals in Bigfork for quite some time. He explained the procedures FCP&Z take for occupancy complaints. M. Mussman also provided an update on the status of the bridge removal.

Adjourn:

The meeting adjourned at 7:18 p.m. (m/s C. Ockert/J. Sorensen), all in favor.

Brenton Pomeroy, Secretary

1 Attachment:

Attachment 1: Sent as separate file FZV-21-01 Strable-Public Comment